SUPREME COURT OF THE UNITED STATES

JESSE LEE *v.* GEORGIA

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF GEORGIA

No. 87-7199. Decided October 3, 1988

The petition for a writ of certiorari is denied.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, dissenting from denial of certiorari.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg* v. *Georgia*, 428 U. S. 153, 231-241 (1976) (MARSHALL, J., dissenting), I would grant the petition for writ of certiorari.

Even if I did not hold this view, I would grant the petition to establish clearly the minimal due process requirements for state change of venue standards. As I recently argued in *Brecheen* v. *Oklahoma*, 484 U. S. —— (1988) (MARSHALL, J., dissenting from denial of certiorari), and *Hale* v. *Oklahoma*, —— (1988) (MARSHALL, J., dissenting from denial of certiorari), a defendant's interest in a fundamentally fair trial outweighs the state's interest in holding that trial in a particular district. It is time that this Court consider the constitutional limits on change of venue standards and assist state efforts to ensure jury impartiality. I would grant certiorari.